

KERN COUNTY SUPERINTENDENT OF SCHOOLS

Audit Report

COLLECTIVE BARGAINING PROGRAM

Chapter 961, Statutes of 1975,
and Chapter 1213, Statutes of 1991

July 1, 2000, through June 30, 2003



STEVE WESTLY
California State Controller

December 2005



STEVE WESTLY
California State Controller

December 23, 2005

Larry E. Reider, Ed.D.
Kern County Superintendent of Schools
1300 17th Street
Bakersfield, CA 93301-4533

Dear Dr. Reider:

The State Controller's Office audited the costs claimed by the Kern County Superintendent of Schools for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2000, through June 30, 2003.

The district claimed \$326,981 for the mandated program. Our audit disclosed that \$240,708 is allowable and \$86,273 is unallowable. The unallowable costs occurred primarily because the district did not provide sufficient documentation to support a portion of claimed costs, and understated offsetting revenues. The State paid the district \$256,624. The amount paid exceeds allowable costs claimed by \$15,916.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (COSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at COSM's Web site, at www.csm.ca.gov (Guidebook link); you may obtain IRC forms by telephone, at (916) 323-3562, or by e-mail, at csminfo@csm.ca.gov.

If you have any questions, please contact Jim L. Spano, Chief, Compliance Audits Bureau, at (916) 323-5849.

Sincerely,

Original Signed By:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/jj:wq

cc: Bud Burrow

Chief Business Official & Administrator
Kern County Superintendent of Schools

Scott Hannan, Director

School Fiscal Services Division
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Contents

Audit Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Officials	3
Restricted Use	3
Schedule 1—Summary of Program Costs.....	4
Findings and Recommendations	6
Attachment—District’s Response to Draft Audit Report	

Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the Kern County Superintendent of Schools for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2000, through June 30, 2003. The last day of fieldwork was July 13, 2004.

The district claimed \$326,981 for the mandated program. Our audit disclosed that \$240,708 is allowable and \$86,273 is unallowable. The unallowable costs occurred primarily because the district did not provide sufficient documentation to support a portion of the claimed costs, and understated offsetting revenues. The State paid the district \$256,624. The amount paid exceeds allowable costs claimed by \$15,916.

Background

In 1975, the State enacted the Rodda Act (Chapter 961, Statutes of 1975), requiring the employer and employee to meet and negotiate, thereby creating a collective bargaining atmosphere for public school employers. The legislation created the Public Employment Relations Board to issue formal interpretations and rulings regarding collective bargaining under the Act. In addition, the legislation established organizational rights of employees and representational rights of employee organizations, and recognized exclusive representatives relating to collective bargaining.

On July 17, 1978, the Board of Control (now the Commission on State Mandates [COSM]) determined that the Rodda Act imposed a state mandate upon school districts reimbursable under *Government Code* Section 17561.

Chapter 1213, Statutes of 1991, added *Government Code* Section 3547.5, requiring school districts to publicly disclose major provisions of a collective bargaining effort before the agreement becomes binding.

On August 20, 1998, the COSM determined that this legislation also imposed a state mandate upon school districts reimbursable under *Government Code* Section 17561. Costs of publicly disclosing major provisions of collective bargaining agreements that districts incurred after July 1, 1996, are allowable.

Claimants are allowed to claim increased costs. For claim components G1 through G3, increased costs represent the difference between the current-year Rodda Act activities and the base-year Winton Act activities (generally, fiscal year [FY] 1974-75), as adjusted by the implicit price deflator. For components G4 through G7, increased costs represent actual costs incurred.

The seven components are as follows:

- G1–Determining bargaining units and exclusive representatives
- G2–Election of unit representatives
- G3–Costs of negotiations
- G4–Impasse proceedings
- G5–Collective bargaining agreement disclosure
- G6–Contract administration
- G7–Unfair labor practice costs

Parameters and Guidelines, adopted by the COSM on October 22, 1980 (last amended on January 27, 2000), establishes the state mandate and defines criteria for reimbursement. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for each mandate requiring state reimbursement to assist local agencies and school districts in claiming reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Collective Bargaining Program for the period of July 1, 2000, through June 30, 2003.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, not funded by another source, and not unreasonable and/or excessive.

We conducted the audit according to *Government Auditing Standards*, issued by the Comptroller General of the United States, and under the authority of *Government Code* Section 17558.5. We did not audit the district's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that costs claimed were allowable for reimbursement. Accordingly, we examined transactions, on a test basis, to determine whether the costs claimed were supported.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, the Kern County Superintendent of Schools claimed \$326,981 for costs of the Collective Bargaining Program. Our audit disclosed that \$240,708 is allowable and \$86,273 is unallowable.

For FY 2000-01, the State paid the district \$182,816. Our audit disclosed that \$165,747 is allowable. The district should return \$17,069 to the State.

For FY 2001-02, the State paid the district \$73,808. Our audit disclosed that \$52,925 is allowable. The district should return \$20,883 to the State.

For FY 2002-03, the district received no reimbursements. Our audit disclosed that \$22,036 is allowable. The State will pay allowable costs claimed, contingent upon available appropriations.

Views of Responsible Officials

We issued a draft audit report on July 15, 2005. Steve Mattern, Director, District Financial Services, responded by letter dated September 12, 2005 (Attachment), agreeing with the audit results except for Finding 4. This final audit report includes the district's response.

Restricted Use

This report is solely for the information and use of the Kern County Superintendent of Schools, the California Department of Education, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original Signed By:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

Schedule 1— Summary of Program Costs July 1, 2000, through June 30, 2003

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2000, through June 30, 2001</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 101,382	\$ 92,755	\$ (8,627)	Finding 1
Travel and training	44,361	—	(44,361)	Finding 3
Contracted services	57,581	101,982	44,401	Finding 3
Increased direct costs, G1 through G3	203,324	194,737	(8,587)	
Components activities G4 through G7:				
Salaries and benefits	240	102	(138)	Finding 1
Travel and training	40	—	(40)	Finding 3
Contracted services	1,133	1,133	—	Finding 3
Increased direct costs, G4 through G7	1,413	1,235	(178)	
Total increased direct costs, G1 through G7	204,737	195,972	(8,765)	
Indirect costs	10,745	4,488	(6,257)	Findings 1, 3
Subtotals	215,482	200,460	(15,022)	
Less offsetting savings/reimbursements	—	(34,713)	(34,713)	Finding 4
Total program costs	<u>\$ 215,482</u>	165,747	<u>\$ (49,735)</u>	
Less amount paid by the State		(182,816)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (17,069)</u>		
<u>July 1, 2001, through June 30, 2002</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 20,516	\$ 13,479	\$ (7,037)	Finding 1
Travel and training	13,797	—	(13,797)	Finding 3
Contracted services	10,342	24,139	13,797	Finding 3
Increased direct costs, G1 through G3	44,655	37,618	(7,037)	
Components activities G4 through G7:				
Salaries and benefits	5,029	4,718	(311)	Finding 1
Travel and training	—	—	—	
Contracted services	21,073	19,993	(1,080)	Finding 2
Increased direct costs, G4 through G7	26,102	24,711	(1,391)	
Total increased direct costs, G1 through G7	70,757	62,329	(8,428)	
Indirect costs	3,051	976	(2,075)	Findings 1, 3
Subtotals	73,808	63,305	(10,503)	
Less offsetting savings/reimbursements	—	(10,380)	(10,380)	Finding 4
Total program costs	<u>\$ 73,808</u>	52,925	<u>\$ (20,883)</u>	
Less amount paid by the State		(73,808)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (20,883)</u>		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference ¹
<u>July 1, 2002, through June 30, 2003</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 12,717	\$ 11,451	\$ (1,266)	Finding 1
Travel and training	—	—	—	
Contracted services	22,174	21,186	(988)	Finding 2
Increased direct costs, G1 through G3	34,891	32,637	(2,254)	
Components activities G4 through G7:				
Salaries and benefits	117	109	(8)	Finding 1
Travel and training	—	—	—	
Contracted services	1,742	1,742	—	
Increased direct costs, G4 through G7	1,859	1,851	(8)	
Total increased direct costs, G1 through G7	36,750	34,488	(2,262)	
Indirect costs	941	610	(331)	Findings 1, 3
Subtotals	37,691	35,098	(2,593)	
Less offsetting savings/reimbursements	—	(13,062)	(13,062)	Finding 4
Total program costs	\$ 37,691	22,036	\$ (15,655)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		\$ 22,036		
<u>Summary: July 1, 2000, through June 30, 2003</u>				
Components activities G1 through G3:				
Salaries and benefits	\$ 134,615	\$ 117,685	\$ (16,930)	
Travel and training	58,158	—	(58,158)	
Contracted services	90,097	147,307	57,210	
Increased direct costs, G1 through G3	282,870	264,992	(17,878)	
Components activities G4 through G7:				
Salaries and benefits	5,386	4,929	(457)	
Travel and training	40	—	(40)	
Contracted services	23,948	22,868	(1,080)	
Increased direct costs, G4 through G7	29,374	27,797	(1,577)	
Total increased direct costs, G1 through G7	312,244	292,789	(19,455)	
Indirect costs	14,737	6,074	(8,663)	
Subtotals	326,981	298,863	(28,118)	
Less offsetting savings/reimbursements	—	(58,155)	(58,155)	
Total program costs	\$ 326,981	240,708	\$ (86,273)	
Less amount paid by the State		\$ (256,624)		
Allowable costs claimed in excess of (less than) amount paid		\$ (15,916)		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unsupported salaries and benefits

The district overclaimed \$17,387 of salaries and benefits for the audit period. The related indirect costs total \$1,241. The overstated salaries and benefits costs resulted from the following:

- The district claimed \$1,284 of ineligible costs for time spent by the district superintendent.
- The district did not support \$6,773 in administrator costs and \$3,819 in substitute teacher costs (\$10,224 for components G1 through G3 and \$368 for components G4 through G7).
- The district overstated productive hourly rates by \$5,511 (\$5,423 for components G1 through G3 and \$88 for components G4 through G7) because several certificated employees' benefits rates were computed using classified employees' benefits rate. Certificated employees received benefits at 13.81% compared to 25% for classified staff.

A summary of the unallowable costs follows.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Components G1 through G3:				
Ineligible costs	\$ (1,059)	\$ (225)	\$ —	\$ (1,284)
Unsupported costs	(3,552)	(6,364)	(308)	(10,224)
Overstated hourly rate	(4,016)	(449)	(958)	(5,423)
Components G4 through G7:				
Unsupported costs	(138)	(230)	—	(368)
Overstated hourly rate	—	(80)	(8)	(88)
Subtotal	(8,765)	(7,348)	(1,274)	(17,387)
Related indirect costs	(586)	(562)	(93)	(1,241)
Audit adjustment	<u>\$ (9,351)</u>	<u>\$ (7,910)</u>	<u>\$ (1,367)</u>	<u>\$ (18,628)</u>

Parameters and Guidelines require the claimant to show classification of the employees involved, amount of time spent, and their hourly rate. In addition, the guidelines require the claimant to show the costs of salaries and benefits for employer representatives participating in negotiations, the costs of substitute teachers for release time of exclusive bargaining unit representatives during negotiations, the job classifications of the bargaining unit representatives that required a substitute, and dates worked.

Parameters and Guidelines states that the claimant must support the level of costs claimed and that the claimant will only be reimbursed for the increased costs incurred. In addition, the *Parameters and Guidelines* states that the costs of the governing authority such as School Superintendent are not reimbursable under the program.

Recommendation

We recommend the district ensure that all claimed costs are eligible increased costs incurred as a result of the mandate and are supported by appropriate documentation.

District's Response

... it does appear that some of the costs filed in the combined claim cannot be supported by the proper documentation while other costs were misclassified. We work closely with our mandated costs vendor to ensure that all costs claimed are properly and adequately documented. However, in this instance, some costs were misclassified while other costs cannot be adequately documented. For these reasons, we do not dispute findings one thru three.

SCO's Comment

The district agrees with the finding.

**FINDING 2—
Unallowable contract
services**

The district claimed unsupported contract services costs of \$2,068 for FY 2001-02 and FY 2002-03.

The unallowable costs resulted from the following:

- The district claimed \$988 in FY 2002-03 for administrative costs incurred by one of its consultants. The district did not provide documentation to substantiate that the activities were mandate-related.
- The district claimed \$1,080 in FY 2001-02 for costs incurred by one of its consultants for Lost Hills Union School District. The district did not provide any source documentation to substantiate the costs incurred.

A summary of unallowable costs follows.

	Fiscal Year		Total
	2001-02	2002-03	
Components G1 through G3:			
Ineligible costs	\$ —	\$ (988)	\$ (988)
Components G4 through G7:			
Unsupported costs	(1,080)	—	(1,080)
Totals	<u>\$ (1,080)</u>	<u>\$ (988)</u>	<u>\$ (2,068)</u>

Parameters and Guideline states that the claimant must support the level of costs claimed and that the claimant will be reimbursed only for the increased costs incurred.

Recommendation

We recommend that the district establish an adequate recording and reporting system to ensure that all claimed costs are eligible increased costs incurred as a result of the mandate and are supported by appropriate documentation.

District's Response

... it does appear that some of the costs filed in the combined claim cannot be supported by the proper documentation while other costs were misclassified. We work closely with our mandated costs vendor to ensure that all costs claimed are properly and adequately documented.

However, in this instance, some costs were misclassified while other costs cannot be adequately documented. For these reasons, we do not dispute findings one thru three.

SCO's Comment

The district agrees with the finding.

FINDING 3— Overstated indirect costs

The district inappropriately allocated \$7,422 for indirect costs on contract services for the audit period.

The district's indirect costs rate was calculated on direct costs excluding contract services costs. Therefore, it is inappropriate to calculate indirect costs on contract services. Furthermore, the claim form used to file the mandate claim stated that indirect costs are not to be allocated on contract services.

During the audit period, the district claimed \$2,971 in indirect costs on contract services. In addition, the district misclassified \$58,198 of contract services as travel and training, and claimed \$4,451 in indirect costs on that amount.

A summary of the unallowable costs follows.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Indirect costs related to:				
Contract services	\$ (2,276)	\$ (457)	\$ (238)	\$ (2,971)
Contract services claimed as travel and training	(3,395)	(1,056)	—	(4,451)
Totals	<u>\$ (5,671)</u>	<u>\$ (1,513)</u>	<u>\$ (238)</u>	<u>\$ (7,422)</u>

Recommendation

We recommend that the district ensure that it allocates indirect costs only for those accounts used in developing the indirect cost rate.

District's Response

... it does appear that some of the costs filed in the combined claim cannot be supported by the proper documentation while other costs were misclassified. We work closely with our mandated costs vendor to ensure that all costs claimed are properly and adequately documented. However, in this instance, some costs were misclassified while other costs cannot be adequately documented. For these reasons, we do not dispute findings one thru three.

SCO's Comment

The district agrees with the finding.

FINDING 4— Unreported offsetting reimbursements

The district did not report \$58,155 in offsetting reimbursements applicable to the mandated program during the audit period. Offsetting reimbursements occurred because the district claimed as direct costs certain salaries and benefits, and contract services that were allocated to federal and other state programs as indirect costs.

The issue arose when the district claimed the aforementioned costs as direct costs in the mandate claim and included these same costs in its indirect cost pool; these costs were allocated to various programs based on direct program-related salaries and benefits.

A summary of unreported offsetting reimbursements follows.

	Fiscal Year			Total
	2000-01	2001-02	2002-03	
Allowable salaries and benefits	\$ (74,110)	\$ (14,776)	\$ (23,714)	<u>\$ (119,600)</u>
Offsetting reimbursement percentages	<u>× 46.84%</u>	<u>× 52.79%</u>	<u>× 55.08%</u>	
Offsetting reimbursements	<u>\$ (34,713)</u>	<u>\$ (10,380)</u>	<u>\$ (13,062)</u>	<u>\$ (58,155)</u>

Parameters and Guidelines states, “Public school employers will be reimbursed for the ‘increased costs’ incurred as a result of compliance with the mandate.”

Recommendation

We recommend that the district ensure that costs are not claimed as direct costs and again as indirect costs.

District’s Response

However, we do disagree with the Controller’s Office finding number four. The State Controller’s Office (SCO) cites *Parameters and Guidelines* (Ps and Gs) in its statement that “. . . only increased costs as a result of this mandate are allowable, and reimbursements received from any source—including service fees collected, federal funds, and other state funds—are to be identified and deducted from this claim”. SCO concludes that the portion of costs which are reimbursed indirectly via the indirect cost rate, after its application to federal and state sources, are to be offset with the claim. We feel that this position is inappropriate according to the law, and is inconsistent with the School Mandated Costs Manual (SMCM).

Ps and Gs actually simply state that only “. . . increased costs. . .” will be reimbursed and is silent about items to be deducted (offset) from the claim.

Presumably, SCO is not taking issue as to whether or not “increased costs” are being claimed, as this question appears to be answered in the Commission on State Mandates STATEMENT OF DECISION, dated March 26, 1998, which concluded that the Collective Bargaining costs were indeed increased costs of a district and were therefore reimbursable (NO 97-TC-08 Collective Bargaining Disclosure STATEMENT OF DECISION TO GOVERNMENT CODE SECTION 17500 ET SEQ.; TITLE 2, CALIFORNIA CODE OF REGULATION, DIVISION 2, CHAPTER 2.5, ARTICLE 7). Rather, it would seem that, based upon the proposed adjustment, that SCO was actually concentrating its focus on offsets to the claim.

The citing that SCO uses to support its position appears to be that of one from the SMCM which reads: “As noted previously, allowable costs are defined as those direct and indirect costs, less applicable credits, considered to be eligible for reimbursement. When all or part of the costs of a mandated program are specifically reimbursable from local assistance revenue sources (e.g., state, federal, foundation, etc.), only that portion of any increased costs payable from school district funds is eligible for reimbursement under the provisions of GC section 17561”.

Because audit guides and manuals can often be ambiguous, I sought clarification with the Government Code (GC). GC section 17513 states:

“Costs mandated by the federal government” means any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. “Costs mandated by the federal government” includes costs resulting from enactment of a state law or regulation where failure to enact that law or regulation to meet specific federal program or service requirements imposed upon the state would result in substantial monetary penalties or loss of funds to public or private persons in the state whether the federal law was enacted before or after the enactment of the state law, regulation, or executive order. “Costs mandated by the federal government” does not include costs which are specifically reimbursed or funded by the federal or state government or programs or services which may be implemented at the option of the state, local agency, or school district.

Critical in the reading of the statute, in the last sentence, is the phrase *specifically reimbursed*. The intent of the statute is clear—“specifically reimbursed” is very restrictive and cannot be interpreted to mean from “any source, either directly or indirectly”. Reimbursement of costs through application of an indirect rate are, by definition, not “specifically reimbursed”.

The Manual actually uses this restrictive interpretation in its examples of the application of the Offset requirement. In its examples, the SMCM uses only specific, restricted sources which are used to pay a portion of the collective bargaining costs, to be offset with the mandated claim. No offset for any reimbursement from application of the indirect cost rate is used in any of the examples. Though the examples do not have the weight of law, they do show consistently that the SMCM actually interprets the law as it was intended, which is inconsistent with the interpretation in the finding in the SCO audit.

SCO’s Comment

The finding and recommendation remain unchanged.

As discussed on September 9, 2005, with Kenneth Gragg, Director of Internal Accounting, Kern County Superintendent of Schools, we updated the criteria in the audit finding to state, “Public school employers will be reimbursed for the ‘increased costs’ incurred as a result of compliance with the mandate.” We are not using *Government Code* Section 17513 as the criteria for the finding.

Also, the district is mistaken when it states that the SCO concentrated its focus on offsets to the claim. As noted in the finding, the finding occurred because the district claimed amounts as direct costs for the mandate that were also included in its indirect cost pool and used in developing its indirect costs rate. To the extent that costs were reimbursed through federal and other state sources, the district did not incur increased costs.

**Attachment—
District's Response to
Draft Audit Report**

September 12, 2005

Jim Spano, Chief Compliance Audits Bureau
State Controller's Office, Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Dear Mr. Spano:

This is the Kern County Superintendent of Schools' formal response to the State Controller's Office audit of costs for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2000 through June 30, 2003.

Regarding audit findings one thru three, it does appear that some of the costs filed in the combined claim cannot be supported by the proper documentation while other costs were misclassified. We work closely with our mandated costs vendor to ensure that all costs claimed are properly and adequately documented. However, in this instance, some costs were misclassified while other costs cannot be adequately documented. For these reasons, we do not dispute findings one thru three.

However, we do disagree with the Controller's Office finding number four. The State Controller's Office (SCO) cites Parameters and Guidelines (Ps and Gs) in its statement that "...only increased costs as a result of this mandate are allowable, and reimbursements received from any sources - including service fees collected, federal funds, and other state funds - are to be identified and deducted from this claim". SCO concludes that the portion of costs which are reimbursed indirectly via the indirect cost rate, after its application to federal and state sources, are to be offset with the claim. We feel that this position is inappropriate according to the law, and is inconsistent with the School Mandated Costs Manual (SMCM).

Ps and Gs actually simply state that only "...increased costs..." will be reimbursed and is silent about items to be deducted (offset) from the claim.

Presumably, SCO is not taking issue as to whether or not "increased costs" are being claimed, as this question appears to be answered in the Commission on State Mandates STATEMENT OF DECISION, dated March 26, 1998, which concluded that the Collective Bargaining costs were indeed increased costs of a district and were therefore reimbursable (NO. 97-TC-08 Collective Bargaining Disclosure STATEMENT OF DECISION TO GOVERNMENT CODE SECTION 17500 ET SEQ.; TITLE 2, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 2.5, ARTICLE 7). Rather, it would seem that, based upon the proposed adjustment, that SCO was actually concentrating its focus on offsets to the claim.

The citing that SCO uses to support its position appears to be that of one from the SMCM which reads: "As noted previously, allowable costs are defined as those direct and indirect costs, less applicable credits, considered to be eligible for reimbursement. When all or part of the costs of a

. . . advocates for children

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mandated program are specifically reimbursable from local assistance revenue sources (e.g., state, federal, foundation, etc.), only that portion of any increased costs payable from school district funds is eligible for reimbursement under the provisions of GC section 17561".

Because audit guides and manuals can often be ambiguous, I sought clarification with the Government Code (GC). GC section 17513 states:

"Costs mandated by the federal government" means any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. "Costs mandated by the federal government" includes costs resulting from enactment of a state law or regulation where failure to enact that law or regulation to meet specific federal program or service requirements imposed upon the state would result in substantial monetary penalties or loss of funds to public or private persons in the state whether the federal law was enacted before or after the enactment of the state law, regulation, or executive order. "Costs mandated by the federal government" does not include costs which are specifically reimbursed or funded by the federal or state government or programs or services which may be implemented at the option of the state, local agency, or school district.

Critical in the reading of the statute, in the last sentence, is the phrase *specifically reimbursed*. The intent of the statute is clear - "specifically reimbursed" is very restrictive and cannot be interpreted to mean from "any source, either directly or indirectly". Reimbursement of costs through application of an indirect rate are, by definition, not "specifically reimbursed".

The Manual actually uses this restrictive interpretation in its examples of the application of the Offset requirement. In its examples, the SMCM uses only specific, restricted sources which are used to pay a portion of the collective bargaining costs, to be offset with the mandated claim. No offset for any reimbursement from application of the indirect cost rate is used in any of the examples. Though the examples do not have the weight of law, they do show consistently that the SMCM actually interprets the law as it was intended, which is inconsistent with the interpretation in the finding in the SCO audit.

We respectfully disagree with Finding 4 in its entirety.

Sincerely,

Larry E. Reider
Kern County Superintendent of Schools

A handwritten signature in blue ink, appearing to read "Steve Mattern".

Steve Mattern, Director
District Financial Services

SM:mo

**State Controller's Office
Division of Audits
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<http://www.sco.ca.gov>